

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Appln. No. : 10/630,754 Examiner: Hageman, M.
Filed : July 31, 2003 Confirmation No.: 2023
For : SEQUENCING SYSTEM AND METHOD OF USE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop **AF**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This request is being filed concurrently with a Notice of Appeal and in response to the Final Office Action of September 11, 2006 ("Final Office Action"). Reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are respectfully requested in view of the following remarks.

Remarks

The Examiner asserts that De Leo (U.S. Pat. No. 6,107,588) anticipates claims 1-20. The Examiner asserts that Walach (U.S. Pat. No. 6,274,836) anticipates claims 1-20. Applicants respectfully disagree.

Claims 1-20 in view of De Leo

Applicants expressly incorporate by reference the arguments presented on pages 2-8 of the Request for Reconsideration Under 37 C.F.R. §1.111 dated June 7, 2006 ("Request for Reconsideration"). The Examiner, in answering the arguments presented on pages 2-8 of the Request for Reconsideration, provides the following explanation:

as in fig 1 and fig 2 it can be seen that some bins after the first pass that only contain "a" items and other bins only contain "b" items. This relationship is maintained after the second pass. (Final Office Action, page 11)

Applicants respectfully disagree with the above statement, and submit, in any event, that it does not address all of the arguments regarding the claimed invention.

Claim 1

The Examiner asserts that De Leo shows the features of claim 1 in Figs. 1a and 1b, col. 3, and col. 5 (Final Office Action, page 2). Applicants expressly incorporate by reference the arguments presented on pages 2-7 of the Request for Reconsideration dated June 7, 2006.

De Leo does not disclose a plurality of output groups corresponding to the plurality of input feeding devices during a first pass phase and a second pass phase, wherein the plurality of input feeding devices feed the product to a plurality of output bins of the plurality of output groups. As discussed in the Request for Reconsideration, De Leo only discloses output groups W_a , W_b of output bins U_i during the second pass phase (Fig. 1b). However, there are no groupings of the output bins U_i in the first pass phase (Fig 1a). Therefore, De Leo cannot arguably disclose a plurality of output groups corresponding to the plurality of input feeding devices during a first pass phase.

Additionally, De Leo does not disclose the control, in the second mode, which constrains placement of the products to output groups assigned in the first pass phase such that the groupings of the products to the assigned output groups remain constant between the first pass phase and the second pass phase. Because De Leo does not disclose a plurality of output groups of output bins during the first pass phase, De Leo cannot arguably disclose that groups remain constant between the first pass phase and the second pass phase.

Even assuming, *arguendo*, that De Leo does disclose output groups during the first pass phase, which Applicants do not concede, then Applicants submit that any groupings of the products to the assigned output groups do not remain constant between the first pass phase and the second pass phase. This is clearly shown by the comparison of Figs. 1a and 1b. There is nothing in De Leo to suggest output groups that remain constant between the first pass phase and the second pass phase.

Claim 13

The Examiner asserts that De Leo shows the features of claim 13 in col. 3 and col. 5 (Final Office Action, page 4). Applicants expressly incorporate by reference the arguments presented on pages 7-8 of the Request for Reconsideration dated June 7, 2006.

De Leo does not disclose a plurality of output groups corresponding to the plurality of input feeding devices during a first pass phase and a second pass phase. As discussed above, De Leo does not disclose output groups used during the first pass phase. Therefore, De Leo cannot

arguably disclose a plurality of output groups corresponding to the plurality of input feeding devices during a first pass phase.

De Leo also does not disclose that the predetermined output groups remain constant between the first pass phase and the second pass phase. As already discussed, De Leo does not disclose output groups in the first pass phase. Moreover, even assuming that De Leo does disclose output groups during the first pass phase, there is no showing that predetermined output groups remain constant between the first pass phase and the second pass phase.

In any event, De Leo does not disclose assigning contiguous output bins to predetermined output groups of the plurality of output groups. De Leo shows groups W_a , W_b of contiguous output bins U_i during the second pass phase in Fig 1b. However, De Leo does not show groups of contiguous output bins U_i during the first pass phase in Fig 1a. Therefore, De Leo cannot arguably disclose assigning contiguous output bins to predetermined output groups of the plurality of output groups and associating each of the predetermined output groups with respective input feeding devices such that the predetermined output groups remain constant between the first pass phase and the second pass phase.

Claim 17

The Examiner asserts that De Leo shows the features of claim 13 in col. 3 and col. 5 (Final Office Action, page 5). Applicants expressly incorporate by reference the arguments presented on page 8 of the Request for Reconsideration dated June 7, 2006.

De Leo does not disclose feeding each of the plurality of product, in a first pass phase, to an assigned group of output bins of a plurality of output groups. As discussed above, De Leo does not disclose output groups associated with the first pass phase (Fig. 1a). Rather, De Leo only discloses output groups W_a , W_b of output bins U_i during the second pass phase (Fig. 1b).

Furthermore, De Leo does not disclose assigning each of the plurality of input devices to each of the assigned group of output bins. In the first pass phase, the input devices may send objects to any bin U_i , and are not assigned to a group of output bins as defined by the invention.

Claims 2-12, 14-16, and 18-20

Claims 2-12, 14-16, and 18-20 depend from an allowable base claim and are allowable for the reasons discussed above. Moreover, De Leo does not disclose at least:

Claim 7 - De Leo does not disclose the control maintains a same grouping of output bins between the first pass phase and the second pass phase. As already discussed, De Leo does not disclose a grouping of output bins in the first pass phase. Even if De Leo does disclose a

grouping of output bins in the first pass phase, De Leo does not show that a same grouping of output bins is maintained between the first pass phase and the second pass phase.

Claim 8 - De Leo does not disclose the control constrains each of the input feeding devices, on the second pass phase, to feeding product, received from a previously assigned output group maintained from the first pass phase, to a same output group in the second pass phase. De Leo does not disclose output groups in the first pass phase. Therefore, De Leo cannot arguably disclose a previously assigned output group maintained from the first pass phase.

Claim 14 - De Leo does not disclose the control constrains placement of the products to the predetermined output groups assigned in the first pass phase during the second pass phase such that the groupings of the products remain constant between the first pass phase and the second pass phase. De Leo does not disclose output groups in the first pass phase. Therefore, De Leo cannot arguably disclose predetermined output groups assigned in the first pass phase.

Claim 18 - De Leo does not disclose constraining placement of the plurality of product during a second pass phase to the assigned group of output bins such that the assigned group of output bins remain constant between the first pass phase and a second pass phase. De Leo does not disclose groups of output bins U_i that remain constant between the first pass phase and the second pass phase.

Claims 1-20 in view of Walach

Applicants expressly incorporate by reference the arguments presented on pages 8-10 of the Request for Reconsideration dated June 7, 2006. The Examiner, in answering the arguments presented on pages 8-10 of the Request for Reconsideration, only provides the following explanation:

Examiner maintains that Walach discloses, a plurality of input feeding devices (10) each randomly receiving products from a stream of product (c9 lines 33-35). (Final Office Action, page 11)

Applicants respectfully disagree with the above statement, and submit, in any event, that it does not address all of the arguments regarding the claimed invention.

Claims 1 and 13

The Examiner asserts that Walach shows the features of claims 1 and 13 in cols. 3-5 (Final Office Action, pages 6 and 8-9). Applicants expressly incorporate by reference the arguments presented on pages 8-9 of the Request for Reconsideration dated June 7, 2006.

Walach does not disclose a plurality of input feeding devices each randomly receiving products from a stream of product, as recited in claims 1 and 13. Walach does not disclose a

stream of product. Furthermore, by definition, if the product is equally distributed, they cannot be randomly assigned to the input feeding devices. Even further, Walach does not disclose that the input bins P randomly receive products from anything, much less from a stream of product. Instead, Walach merely discloses input bins P and a sorter, and that the articles are divided approximately equally between the input bins. This does not, however, constitute randomly receiving products from a stream of product.

Applicants note that lines 33-35 of column 9, cited by the Examiner in the Response to Arguments section of the Final Office Action, states "providing a multiplicity of articles to be sorted, each one of said multiplicity of articles having an associated sorting key". This passage does not disclose a plurality of input feeding devices each randomly receiving products from a stream of product.

Claims 17

The Examiner asserts that Walach shows the features of claim 17 in cols. 3-5 (Final Office Action, pages 9-10). Applicants expressly incorporate by reference the arguments presented on pages 9-10 of the Request for Reconsideration dated June 7, 2006.

Walach does not disclose providing a plurality of product from a stream of product to any of a plurality of input devices. As already discussed, Walach merely discloses input bins P and a sorter, and that the articles are divided approximately equally between the input bins. Walach does not, however, disclose a stream of product. Moreover, Walach does not disclose that products from a stream of product can be provided to any of a plurality of input devices.

Claims 2-12, 14-16, and 18-20

Claims 2-12, 14-16, and 18-20 depend from an allowable base claim and are allowable at least for the reasons discussed above.

CONCLUSION

Reconsideration of the Final Office Action and allowance of the present application and all the claims therein are respectfully requested and believed to be appropriate.

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